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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 \*E-FILED - 1/5/06\*

13 UNITED STATES OF AMERICA, )

14 Plaintiff, )

15 v. )

16 DAVID M. FISH, )

17 aka x000x, et al., )

18 Defendants. )

No. CR 05-00445-RMW

**NOTICE OF RELATED CASE IN A  
CRIMINAL ACTION AND  
ORDER**

19 UNITED STATES OF AMERICA, )

20 Plaintiff, )

21 v. )

22 MOISES NUNEZ, )

23 aka cartel, aka marvel, aka OTR, )

STEPHEN BROWN, )

aka blahz, aka sab, )

DESTON EVANS, )

aka hammer, aka 778889, )

OSCAR MARTINEZ, )

aka janeiro, aka xraided, aka sailorboy, )

PAUL ALEMAN )

aka panic, aka HEMi, aka panic\_1, )

Defendants. )

No. CR 05-00734-JW

**NOTICE OF RELATED CASE IN A  
CRIMINAL ACTION AND  
ORDER**

## NOTICE OF RELATED CASES IN A CRIMINAL ACTION

Criminal Local Rule 8-1 of the Local Rules of Practice of the United States District Court for the Northern District of California, imposes a duty on any party to "promptly" notify the Court of cases which may be related. The Government hereby gives notice pursuant to Criminal Local Rule 8-1 that the above-captioned criminal cases are believed to be related since the "actions concern one or more of the same defendants and the same alleged events, occurrences, transactions or property." Criminal Local Rule 8-1(b)(1).

Based on the charges and other documents on file, each of these cases relates to the same warez conspiracy. Conspiracy and copyright charges have been filed against all of the defendants concerning their role in the warez conspiracy. A review of the two indictments further shows that there is a substantial overlap in many of the conspiracy allegations. The cases also relate to the same investigation.

To date, five defendants have been convicted before Judge Whyte in the original or related cases.

Based on the foregoing, the Government believes that the two above-captioned cases concern “the same alleged events, occurrences, transactions or property” within the meaning of Criminal Local Rule 8-1(b)(1) and are therefore related to each other. As a result, the Government further maintains that assignment to a single judge is likely to conserve judicial resources and promote an efficient determination of the action. Accordingly, pursuant to Criminal Local Rule 8-1(e), the Government requests that the five defendants charged in the Nunez case be assigned to the judge assigned to the earliest-filed case, that is, Judge Ronald M. Whyte. For the convenience of the Court, a proposed Order is submitted consistent with the regular practice of the Court and the Local Rule that related cases are generally assigned to the judge to whom the first filed action was assigned.

DATED: November 17, 2005

Respectfully Submitted,

KEVIN V. RYAN  
United States Attorney

MARK L. KROTKO  
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/s/ \_\_\_\_\_  
**MARK L. KROTKO**  
Assistant United States Attorney

## ORDER

For Good Cause shown,

Pursuant to Criminal Local Rule 8-1(e), the Court finds the case of United States v. David M. Fish et al., CR 05-00445-RMW, is related to United States v. Moises Nunez et al., CR 05-00734 JW. The actions concern one or more of the same alleged events, occurrences, transactions or property; and the actions appear likely to entail substantial duplication of labor if heard by different Judges or might create conflicts and unnecessary expenses if conducted before different Judges.

IT IS THEREFORE ORDERED that case number CR 05-00734 JW be reassigned to the Honorable Ronald M. Whyte. All captions in the reassigned case shall now appear as CR 05-00734 RMW.

SO ORDERED.

DATED: January 5, 2006

/s/ Ronald M. Whyte

**RONALD M. WHYTE**  
United States District Judge